

DELTA PROTECTION COMMISSION

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December 3, 1993

To: Delta Protection Commissioners

From: Margit Aramburu, Executive Director

Subject: Governor Wilson's letter re the San Francisco Estuary Project and Bay-Delta Oversight Council (BDOC) Initial Water Quality and Biological Resources Objectives

For your information attached is a copy of Governor Wilson's letter regarding the Comprehensive Conservation and Management for the San Francisco Estuary.

Also attached is a copy of BDOC's Initial Water Quality and Biological Resources Objectives.

Attachments



GOVERNOR PETE WILSON

November 17, 1993

Ms. Carol Browner
Administrator
USEPA
401 M Street, S.W., W-1200
Washington, D.C. 20460

Dear Ms. Browner:

I have a long history of involvement and support for the San Francisco Estuary Project. As a United States Senator, I was pleased to help assure that the San Francisco Bay was included in the amendment to the Clean Water Act that authorized and funded the development of the proposed Comprehensive Conservation Management Plan (CCMP). I have reviewed the proposed plan in context of my original reasons for supporting this program's establishment, reflected in my correspondence to the Senate conferees on the Clean Water Act in 1985:

"At a time when Congress is apparently willing to make a further commitment to the preservation of environmentally sensitive estuaries, I think it highly appropriate that the San Francisco Bay be part of this program

What is needed is a central repository for this information with a mandate to produce a Bay-area management plan Implementation by the state of this management plan is intended to be funded in part by an EPA grant." [emphasis added]

As Governor, I have been pleased to help ensure a constructive state role in development of the

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CCMP. California has committed substantial resources to assist in its development and is contributing the lion's share of money to fund many of the current and planned actions it recommends.

As noted in the supplemental material prepared by the San Francisco Estuary Project on the financial implications of its plan, the state is presently funding 83 actions endorsed by the CCMP. California is currently committed to expend more than twice as much as the federal government over the twenty-year implementation period. This reflects the state's existing and continuing commitment to provide the lead in restoring and protecting the environmental values of this great Estuary.

Additionally, my administration has initiated a number of water resource management policies that both support and complement the trust of the CCMP. Indeed, a central part of my comprehensive, long-term water policy focuses on the Estuary.

I am pleased that a substantial part of the CCMP is consistent with my overall water resource policy. However, changed circumstances have made several specific actions recommended in the CCMP either moot or inconsistent with our own comprehensive state policy. Consequently, I must condition my concurrence.

Despite my conditional acceptance of its conclusions and recommendations, it should be clear that I view the development of the CCMP by the San Francisco Estuary Project as a monumental and beneficial undertaking, involving many individuals and public agencies. The participants have made a major contribution to the debate concerning problems facing the San Francisco Bay-Delta Estuary. Their five plus years of effort will represent a significant milestone only if we both pursue its implementation in the most cost-effective manner and build upon this state-federal cooperative planning effort by conducting the recommended state-led EIS/EIR to document how to best address the underlying causes of the major problems in the Estuary.

As Governor, I must ensure we use a balanced approach to managing and "fixing" the Bay-Delta: one that reconciles the nationally significant economic

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and environmental values that are each dependent on the Estuary. The conditions I am placing on implementation of the CCMP will assure this necessary balance.

I hereby concur with the Comprehensive Conservation Management Plan of the San Francisco Estuary Project with the following conditions:

Aquatic Resources

1. I concur with this Plan with the understanding that it will not increase the existing authority of any federal entity in regards to management or regulation of California's water resources. The state will remain the sole authority in allocation of water rights within California.

2. This Plan cannot be implemented in isolation from the other critical, beneficial uses and values dependent upon the Estuary; most notably water supply for domestic, industrial and agricultural use. These are equally required to be protected under both State and Federal law. Consequently, I must specifically condition the implementation of this Plan with minimizing to the degree feasible the impact upon other legally recognized and protected beneficial uses.

3. I am concurring with this Plan with the explicit understanding that it neither requires nor recommends the use of a two (2) parts per thousand (PPT) salinity measurement as a water quality standard. Rather, the Plan only recommends monitoring the 2 ppt isohaline as one of the variables to be measured in order to better understand the dynamics of the Estuary, and specifically the salience and effectiveness of a salinity standard. This field test of the relationship between salinity and the health of aquatic resources should be valuable in determining the degree to which salinity can serve as a useful barometer of the biological conditions in the Estuary.

4. Although I accept the general goal of Objective AR-3 ("Implement recovery actions for all listed and candidate threatened and endangered species."), I have serious reservations about some of the specific actions it calls for. It is my belief

that an ecosystem focus and better coordination among state and federal agencies should be the emphasis of any strategy to resolve these issues. Continuing the old methodology of producing recovery and habitat plans and consultations on individual species is likely to only move us further down the tracks toward an environmental and economic "train wreck," instead of solving current problems and preventing new ones from arising in the future.

5. Action AR-4.1(a) is now outdated and moot. In light of the federal government's imposition of standards under its pre-eminent Endangered Species Act authority, as well as the expressed intention of the federal Environmental Protection Agency to promulgate its own water quality standards for the Estuary, I requested in April of this year that the State Water Resources Control Board not contribute to further regulatory overload by promulgating its own interim State water quality standards. Therefore, the portion of this Action item calling for issuance of immediate interim state water quality standards is outdated and irrelevant and should be removed.

The original basis for the "interim standards" was to sufficiently stabilize the Estuary's public trust resources to afford the time necessary for a long-term solution to be documented and implemented. I remain committed both to taking actions now that can stabilize the health of the Estuary and to proceeding expeditiously with a thorough and objective solution-finding process.

I have directed State entities to work with their federal counterparts to achieve the requirements of the law. The State will constructively contribute to the current federal process, with the goal of establishing scientifically-sound interim water quality standards in a manner least costly to the millions of Californians dependent on the Estuary for their drinking, industrial agricultural and water supply.

6. I want to particularly highlight and comment on Objective AR-5 ("Develop a comprehensive plan to optimize the management of estuarine aquatic resources that addresses the needs of all users and

promotes an equitable balance; protects indigenous species; and, consistent with the state and federal mandates, doubles the natural production of anadromous fishes.") This Objective and implementing Actions are essential if we are to achieve the needed restoration of the Estuary. We must conduct the recommended solution-finding process to address the underlying causes of the Estuary's problems. Until this is done, the current "management by crisis" will be perpetuated.

It is critical in achieving this goal that the interests of all three water segments; urban, agriculture and the environment are met. Included in this we need to be mindful of future facility needs that may be required to meet these objectives. It would be inappropriate to unduly place the burden of meeting water needs on one segment.

This Objective and implementing Actions appropriately call for a state lead in the conduct of a solution-finding process within the rigorous requirements of public involvement and objectivity of the National Environmental Policy Act and the California Environmental Quality Act. I have launched this effort through an Executive Order establishing the Bay-Delta Oversight Council, and I have charged the Council to oversee many of the specific actions recommended in AR-5. I am seriously troubled, however, as this effort continues to suffer from the lack of meaningful and essential federal involvement, as called for in the CCMP. This central Objective can only be achieved when the Federal Administration commits itself to the solution-finding process.

Wetlands

Since July, when the San Francisco Estuary Project CCMP was forwarded to me, both I and President Clinton have announced comprehensive wetlands policies. The two policies appear consistent and should foster an improvement in wetlands programs in California.

On August 23, 1993, I announced my Wetlands Conservation Policy. It is founded on three basic

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principles: (1) achieving a net increase in wetlands acreage and values, (2) reducing the complexity of the regulatory process, and (3) encouraging partnerships to make landowner incentives and planning the primary focus of wetlands conservation. The policy calls for the state to undertake many diverse actions to accomplish its goals and gives directions to state agencies to undertake the actions necessary for its implementation.

The major components of my wetlands policy include: a comprehensive statewide wetlands inventory, establishment of regional and statewide goals to increase wetland acreage and quality, promotion of landowner programs, adoption of a single regulatory definition for wetlands, delegation of wetlands permitting authority in the Federal Clean Water Act Section 404 program from the U.S. Army Corps of Engineers to the State, initially in the San Francisco Bay Area, support for \$70 million for wetlands protection in a natural resources bond measure, active support for wetlands mitigation banks, establishment of an inter-agency task force responsible for coordinating the implementation of the wetlands policy, and identification of regional strategies in the Central Valley, San Francisco Bay Area, and Southern California to begin implementation of the policy.

Because of the critically important environmental and economic benefits that wetlands in the San Francisco Bay estuary provide -- including fish, wildlife and water fowl habitat, water purification and filtration, flood control, and scenic and recreational enjoyment -- these are among the state's and nation's most important wetlands.

Consequently, my wetlands policy identifies the San Francisco Bay Area as one of three regions in which a variety of actions be taken to increase wetlands acreage and values, while streamlining the wetlands regulatory process.

I find the overall goals of the CCMP wetlands section to be generally consistent with my policy. The goal of increasing and improving Bay Area wetlands corresponds exactly with my policy of identifying specific numerical goals to increase and improve wetlands. I also support the development of a

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regional wetlands management plan, and suggest that the Estuary Project's efforts be closely coordinated with development of the State plan.

Because my wetlands policy is just now being implemented, it would be unwise to concur in the most specific actions of the CCMP. Some CCMP actions prejudice issues which ought to be further developed through the public processes my policy anticipates. For example, my policy requests the State Water Resources Control Board develop a balanced approach to the Army Corps of Engineers Nationwide Permits (NWP); the CCMP, on the other hand, prescribes a specific solution prior to the completion of the State Board's deliberations.

As the State moves forward with implementation of my policy, we anticipate working closely with the federal government in implementing the President's new wetlands policy. Due to the coincidences of timing and content, a close state/federal partnership can be developed. I am particularly pleased that the President's policy anticipates an increased role for states in the Clean Water Act, Section 404 program.

Therefore, I concur with the actions of this section which are consistent with my policy. Additional decisions concerning the compatibility of my policy with the specific actions in the CCMP will be made as the need arises, and will be guided by the principles of my wetlands policy.

Costs and Priorities

I further condition my concurrence of the CCMP with a frank recognition of the fiscal realities confronting California. Revenues in the state budget have been declining and base programs are being cut.

While the actions called for in the CCMP are already being pursued at a state funding level twice that of the federal government, the ability for the State to take on any new fiscal responsibilities is severely limited. Therefore, my concurrence with the CCMP is not, and should not be interpreted as, a commitment to a specific funding level by the state. Rather, to the degree that funds are available or can be gained from other sources, the state will

pursue those CCMP recommendations that are determined to be most cost-effective. Additionally, I specifically do not concur with the recommendations on new revenue sources recommended by the Planning Subcommittee (pp. 157-158).

Second, it is incumbent upon the Executive Council to establish priorities within the CCMP. It is imperative that the Executive Council refine the multitude of recommendations within the CCMP to determine a priority sequencing based upon cost-effectiveness and available funding from the state, federal and private sector.

Implementation

As Governor, I believe it is essential that implementation of the CCMP be structured in a manner that recognizes and reflects the state's primary role in managing and protecting its water resources. Consequently, I am pleased by the goals established for the implementation structure:

"The Executive Council will have primary responsibility for implementing the CCMP. The Implementation Committee will coordinate implementation activities under the broad policy direction of the Executive Council."

To assure that these goals can be fulfilled, my concurrence is conditioned on the following understandings of this section:

- 1) Except as specifically called for in the CCMP, the members of the Implementation Committee, and other committees, will be appointed by the Executive Council;
- 2) The Implementation Committee serves as advisor to the Executive Council on matters regarding workplan, budgets, priorities and policy; and,
- 3) Most importantly, my concurrence is specific to the Executive Council composition as described in the CCMP. A federally dominated Executive Council, as outlined in current implementing legislation in

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Congress, is completely unacceptable to the State and would receive neither state support nor participation. In fairness, it is my understanding that the author of that legislation sought to codify the composition recommended by the CCMP, but was informed that to do so would violate the separation of power provisions of the U.S. Constitution. I urge Congressional supporters of the CCMP not to legislate on this point, but rather to embrace the implementation structure as recommended by the CCMP and hereby concurred with by the Governor of California.

In closing, I am pleased to generally concur with the fundamental findings and recommendations of the CCMP. With these actions, we will do what is now most cost-effective to stabilize the Estuary. Yet, we must not lose sight of the fact that substantial restoration of the Bay-Delta's natural resources will be prohibitively costly, in both dollars and water, unless and until we effectively address the underlying causes of the problems now manifest in the Bay-Delta.

We can only achieve the goals of the CCMP and our shared responsibility to reconcile California's economic and environmental water dependencies through conducting a joint federal and state EIS/EIR as recommended in both my water policy and in this CCMP. Until we jointly identify and implement feasible solutions, the "broken" Bay-Delta will continue to tragically pit the natural resources of one of the nation's most important estuaries against the needs of the humans, including the water supply for twenty million Californians and the most productive state economy in the country.

Just as California is committing itself to do its fair and necessary part to implement both the Central Valley Project Improvement Act (CVPIA) and the CCMP, it is time for the federal government to join with California in conducting a solution-finding process to investigate and resolve the underlying cause(s) of the problems in the Bay-Delta.

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I pledge my Administration's continued support in working with all parties for an effective and equitable implementation of the CCMP, as conditioned herein by my concurrence.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Wilson". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

PETE WILSON

BDOC INITIAL OBJECTIVES

Set forth below are the initial objectives that the Bay-Delta Oversight Council has developed thus far. They cover the areas of water quality and biological resources. It is important to note that these objectives are indeed preliminary and that they will be revisited by the Council after a complete set (including levee and water supply objectives) has been developed to insure consistency among them as a unified whole. Moreover, a couple of the preliminary objectives (as noted "***") are still undergoing initial refinements.

INITIAL WATER QUALITY OBJECTIVES

GENERAL OBJECTIVE:

To protect and improve Estuary water quality for all beneficial uses, including aquatic resources, fisheries, drinking water, industry, agriculture, wildlife, wildlife habitat and plant species.

SPECIFIC OBJECTIVE:

To provide water quality through management of source waters and/or treatment of water supplies to ensure reliable compliance with current and anticipated urban and agricultural water quality standards at a reasonable cost to all affected parties.

SPECIFIC OBJECTIVE:

To provide water quality in the estuarine ecosystem to enhance and sustain both the Estuary's ecological functions and habitat quality for biological resources.

INITIAL BIOLOGICAL RESOURCES OBJECTIVES

GENERAL OBJECTIVE:

To improve and sustain biological resources dependent on the Estuary ecosystem.

SPECIFIC OBJECTIVE {AQUATIC RESOURCES}:

To improve conditions in the Estuary in order to avoid, eliminate or offset adverse effects of water management practices and other factors on fishery resources.

SPECIFIC OBJECTIVE {AQUATIC RESOURCES}:

*To restore aquatic ecosystem functions and processes, necessary to achieve the general objective. ***

SPECIFIC OBJECTIVE {PLANTS AND WILDLIFE}:

*To improve and sustain habitats and natural communities which support the Estuary's native wildlife and plant resources. ***